

DISPOSITION OF PERSONAL PAPERS NONRECORD MATERIALS

A. Many Government officials, during their tenure in office, accumulate substantial collections of "personal papers" and copies of official documents created solely for convenience of reference. These latter documents, originated, reviewed, signed, or received during an official's time in office can provide an historically valuable supplement to the official files which must be left in the OSD when the official departs.

B. This enclosure describes these two categories of documents and explains what may and what may not be done with them. **Note** the difference between personal papers and nonrecord materials. The distinction is sometimes blurred, especially when nonrecord materials become part of a collection referred to as an official's "personal papers."

C. Personal papers are not subject to 44 U.S.C. (reference (d)) that pertain to the maintenance and disposal of official records. 36 CFR 1222.36 (reference (e)) defines personal papers as:

1. "... documentary materials, or any reasonably segregable portion thereof, of a private or nonpublic character that do not relate to or have an effect upon the conduct of agency business. Personal papers are excluded from the definition of Federal records and are not owned by the Government."

2. The following are examples of personal papers:

a. Papers accumulated by an official before joining Government service that are not used subsequently in the transaction of any Government business.

b. Materials relating solely to an individual's private affairs, such as outside business pursuits, professional affiliations, or private political associations that do not relate to agency business.

c. Diaries, journals, personal correspondence or other personal notes that are not prepared or used for, or circulated or communicated in the course of, transacting Government business.

3. The following pertain to the maintenance, marking, and handling of personal papers:

a. They shall be clearly designated as such and shall

at all times be maintained separately from the office's official records.

b. **If** information about private matters and agency **business** appears in the same document, it **shall** be copied at the time of receipt, with the personal information deleted, and treated as a Federal record.

c. Materials labeled "personal, " "confidential, " or "private, " **or** similarly designated, and used in the transaction of public business, are Federal records subject to the provisions of pertinent laws and regulations. The use of a label such as "personal " is not sufficient to determine the status of documentary materials in a Federal office.

4. Personal **papers** may be removed. **at** the discretion of their **creators**.

D. Nonrecord materials.

1. As defined by 36 CFR 1222.34 (reference (e)) , are Government-owned documentary materials that include:

a. Library and museum materials (only if made or acquired and preserved solely for reference or exhibition) .

b. Stocks of publications and other printed documents.

c. EXTRA COPIES OF OFFICIAL DOCUMENTS, if accumulated for the SOLE PURPOSE of ease of reference. Copies of official documents **will** not be made SOLELY for the purpose of removal or donation. These materials may be removed from Government control providing the following conditions are met:

(1) Unclassified. A departing official may remove unclassified nonrecord materials from Government custody for personal use or for donation to a Presidential Library of the NARA or to some private institution (college, library, historical society, etc.) , providing such removal does not violate privacy or any other interest protected by law and has been approved by the OSD Records Administrator.

(2) Classified. Information classified under the provisions of Executive Order **12356** (reference (q)) **will** not be removed from the Government's control under any circumstances. "Government control " is defined as the ability of the originating agency to regulate access to the materials. Officials may have donated in their names for historical retention classified nonrecord materials to a Government repository such as a Presidential Library, authorized to safeguard national defense information. Access to these documents (aside from the archivists responsible for their custody and maintenance) shall be granted only to those persons who have the requisite security

clearances and whose access has been approved, in accordance with **E.O. 12356** (reference (q)), by the agencies who originated the classified material.

2. **Note** that WORKING FILES such as preliminary drafts and rough notes and other similar materials are classified as OFFICIAL RECORDS when they are circulated for official purposes such as approval, comment, action, recommendation, etc., and when they **contain** unique information, such as SUBSTANTIVE annotations or comments that add to a proper understanding of the agency's decision-making process or how its mission is accomplished.

3.. Any **transfer** of **nonrecord** copies of official documents "to any Government or private institution must be effected in writing by a deed of gift or other form of legal conveyance. The written instrument must clearly explain the terms under which the **donee** institution accepts the papers and the protection they will **be** afforded while . in its care, to include mandatory restrictions on access. These restrictions pertain to any of the following: potential violations of personal privacy; Protection of NATIONAL SECURITY INFORMATION; statements made by or to the donor in confidence; materials or information that might prove prejudicial to the conduct of the foreign relations of the United States; and material relating to law enforcement investigations. **Any** such conveyance will be reviewed by the Department of Defense General Counsel and the OSD Records Administrator before the donor signs it.

4. It is the responsibility of the donor and his or her immediate staff to ensure that the donated materials are screened so that they contain no official agency record copies or other **material** that can not be removed from the Government's control. The donor is responsible for compliance with all security regulations governing classified information in his **or** her files until the classified material is properly transferred to another individual or institution or destroyed.